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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/690,377

10/17/2000

Noboru Aiba

JG-KM-4818D

2920

7590

09/10/2002

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EXAMINER

TAWFIK, SAMEH

ART UNIT

PAPER NUMBER

3721

DATE MAILED: 09/10/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/690,377

**Applicant(s)**

AIBA ET AL.

**Examiner**

Sameh H. Tawfik

**Art Unit**

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 6 and 9 is/are pending in the application.
- 4a) Of the above claim(s) 7 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 6 and 9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Coplan et al. (4,017,030) in view of Sakurada et al. (5,993,843).

Coplan discloses a method for preparing an annular sustained release pheromone-dispenser whose end portions are connected to each other (Figs. 3a and 3b); comprising the steps of arranging a plurality of continuous plastic tubes (Figs. 3a and 3b) which are filled with a liquid synthetic sex pheromone (Fig. 1); fusing them at a predetermined pitches by heating under a pressure and then cutting them at each fused portion to produce a dispenser composed of two side by side tubes having closely sealed both end portions (Figs. 3a and 3b; column 8, lines 53-57). Coplan does not disclose that pulling apart the center portion to separate the central portion of each tube from the central portion of the other tube. However, Sakurada discloses a similar method of preparing an annular sustained release pheromone dispenser comprising the step of pulling apart the central portion to separate the central portion of each tube from the central portion of the other tube, see for example (Fig. 1; via 18; column 14, lines 65-67 and column 15, lines 1 and 2) to provide a biodegradable sustained release preparation which can during application carry out sustained release of its active ingredient stably at a desired release rate for a long period of time (column 3, lines 50-55).

Art Unit: 3721

Coplan does not clearly disclose the exact range of fusing the tubes at a range of 2 to 15 mm together at predetermined points. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Coplan's method for preparing an annular sustained release pheromone-dispenser by having the exact range of fusing the tubes at a range of 2 to 15 mm together at predetermined points, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. In re Aller, 105 USPQ 233.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Coplan's method for preparing an annular sustained release pheromone-dispenser by having the step of pulling apart the central portion to separate the central portion of each tube from the central portion of the other tube, as suggested by Sakurada, in order to provide a biodegradable sustained release preparation which can during application carry out sustained release of its active ingredient stably at a desired release rate for a long period of time.

Regarding claim 6: Coplan discloses the plurality of plastic tubes are fused by heating under pressure after sandwiching the portion to be fused between a pair of pieces made of a plastic (Figs. 12 and 13; column 8, lines 53-58).

Art Unit: 3721

*Conclusion*

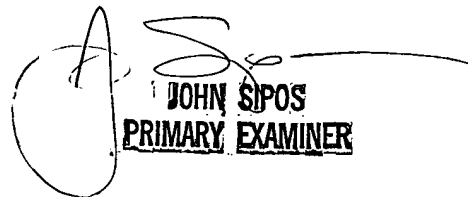
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sameh H. Tawfik whose telephone number is (703) 308-2809.

The examiner can normally be reached on Tuesday - Friday from 8:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on (703) 308-2187. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3579 for regular communications and (703) 308-7769 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

ST.  
August 22, 2002

  
JOHN SIPOS  
PRIMARY EXAMINER